

# PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference 11019P1WO/AB		<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/GB 03/02931	International filing date (day/month/year) 07.07.2003	Priority date (day/month/year) 17.07.2002	
International Patent Classification (IPC) or both national classification and IPC B65D65/46			
Applicant RECKITT BENCKISER (UK) LIMITED et al.			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.



2. This REPORT consists of a total of 6 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand  15.12.2003	Date of completion of this report  24.09.2004
Name and mailing address of the International preliminary examining authority:   European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer  Appelt, L  Telephone No. +49 89 2399-2570 

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/GB 03/02931

## I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*):

### Description, Pages

1-38 as originally filed

### Claims, Numbers

1-18 as originally filed

### Drawings, Sheets

1/1 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	1-18
	No: Claims	
Inventive step (IS)	Yes: Claims	4
	No: Claims	1-3,5-18
Industrial applicability (IA)	Yes: Claims	1-18
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

**Re Item V**

**Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

***Claim 1***

The closest prior art appears to be disclosed in the document GB-A-2358382 (D1). This document discloses a water-soluble container comprising at least one first compartment (24, 26), said one or each first compartment containing a composition that comprises less than 5 wt% free water (see, for example, page 56, lines 1, 2 stating that the composition may be anhydrous, i.e. containing no water at all; see also page 61, lines 19 to 21 stating that the total amount of water may be 2 to 5 wt%), and a second compartment containing a second composition, wherein the second composition generates a gas on exposure to the atmosphere or water (see page 63, lines 27 to 30). It is clear from D1 (see, for example, page 54, line 8) that the composition contained in the second compartment may include a bleaching agent which, when exposed to the atmosphere or to water, would generate a gas.

Having regard to figures 2, 4 and 5, it would appear that the height of the upstand is greater than its radius which would mean that more than 50% of the surface area of the second compartment is enclosed by the first compartment or first compartments.

It is common practice not to use figures in patent documents for judging whether certain dimensions of particular features are known or not.

Accordingly, it has to be stated that the subject-matter of the present claim 1 is new in view of the disclosure of the document D1, in particular as D1 is silent as to the dimensions of the upstand and its surrounding compartment.

However, having regard to Fig. 5 of D1, it is clear that the weak point of the inner compartment (i.e. the upstand) is the foil covering its open end. The skilled man, wishing to minimise the possibility of rupture of the inner compartment, in particular of the foil covering the compartment, would, without any hesitation, try to minimise the area of the inner compartment covered by the foil and, therefore provide an upstand whose height is considerably greater than its radius.

Accordingly, it appears that the present claim 1 does not meet the requirements of Article 33 (3) PCT, because its subject-matter lacks an inventive step.

***Claims 2 to 18***

It appears that the additional subject-matter of the present dependent claims 5 to 8 and 11 to 18 is also disclosed in the document D1.

The teaching set out in the present claims 2 and 3 appears to fall within the normal practice performed by the skilled man when providing a water-soluble container (as to claim 2, particular reference is made to the observations set out above with respect to the subject-matter of claim 1).

Furthermore, it would appear that the applicant himself could not see an action involving an inventive step in providing venting features to the first and/or second compartment (cf. claims 9 and 10).

Accordingly, it appears that the present claims 2, 3 and 5 to 18 do, because of lack of an inventive step, not meet the requirements of Article 33 (3) PCT.

***Additional observations***

According to the whole content of the description, it appears that the main purpose of the invention consists in that release of certain substances contained in the water-soluble container into the immediate surroundings should be avoided by a construction which, upon rupture of the second compartment, would allow to release these substances into the first compartment.

To this end, the application teaches a construction that minimises the probability of release of substances from the second compartment into the surroundings by minimising the possible contact of the second compartment walls with air or with water.

According to the description and the drawings, this is achieved by allowing only a very small part of the second compartment, i.e. the top cover of the compartment, to get into contact with the atmosphere. All remaining parts of the second compartment are immersed in the substance contained in the first compartment. Consequently, the second composition would - upon rupture of the second compartment - rather be mixed with the first composition than with the atmosphere surrounding the container. If, however, the first composition would contain air or water, the mixture would, nevertheless, generate a gas thereby possibly destroying the whole container. This is

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avoided by the first composition being substantially devoid of any component which, when coming into contact with the second composition, would generate a gas.

None of these features solving the basic problems of the present application is defined in claim 1.

It is even not indicated in claim 1 that the construction of the container should be such that the probability of contact of the second composition with air or with water is minimised. With the values indicated in claim 1, the probability that a gas will be generated by the second composition being exposed to air or to water is at about 50% (or even more, since up to 5 wt% free water in the first composition could also react with the second composition). Accordingly, it is believed that the teaching defined in claim 1 would even not come close to a minimisation of the probability of gas generation by the second composition.

Accordingly, it appears that the present claim 1 does not meet the requirements of Article 6 PCT, because its subject-matter is not clear. In particular, it appears that the subject-matter of the present claim 1 fails to solve the basic problem of the present application.

At present, it appears that the provision of a composition in the first compartment which is devoid of gas generating substances and/or the provision of gas release means (cf. the present claim 4) would contribute to the solution of the problems forming the basis of the present invention (but not to their entire solution).